

**REMARKS**

All pending claims, that is, claims 1-5, are currently amended. No claims are canceled or added.

Claims 1-3 stand rejected under 35 U.S.C. § 102(e) as anticipated by *Maruta et al.* (U.S. Patent No. 6,460,332). Applicant respectfully submits that the rejection should be withdrawn.

Applicant discloses a construction machine that differs from the technology disclosed by *Maruta et al.* For example, note the second paragraph of page 12 and Fig. 1, which disclose that, via a pair of gears, an output shaft of regenerative motor 8 is connected to hydraulic pump 2. In contrast, *Maruta et al.* discloses hydraulic pump motor 18 connected to hydraulic motor 25 via pressure oil supply line 21. As shown above, claim 1 is now amended to emphasize this distinction.

That is, claim 1 describes a construction machine that is constructed in such a way that:

a rotation shaft of a regenerative motor ... is connected to a rotation shaft of the hydraulic pump.

(Applicant uses the term “rotation shaft” instead of “output shaft,” because “the rotation shaft of the regenerative motor” is recited later in the claim.) Claims 2 and 3 depend from claim 1, so they implicitly recite this subject matter. Because *Maruta et al.* does not teach such subject matter, the anticipation rejection should be withdrawn.

Applicant adds that *Maruta et al.* does not disclose that a hydraulic pump is driven by different means depending on particular conditions. More specifically, according to the applicant’s invention, the hydraulic pump is driven by either: (1) an engine and a regenerative motor; or (2) the regenerative motor, depending on whether drive torque necessary in the hydraulic pump is larger or smaller than output torque generated by operation of the regenerative motor.

Further, *Maruta et al.* discloses converting kinetic energy of return pressure oil into electric energy and storing it. However, *Maruta et al.* does not disclose driving a hydraulic motor in real time by rotating a regenerative motor with the use of return oil.

Thus, applicant's invention, as described in claims 1-3, differs significantly from the technology disclosed by *Maruta et al.* Accordingly, applicant now requests the withdrawal of the anticipation rejection.

Applicant appreciates the indication in the Office Action that claims 4 and 5 would be allowable if rewritten in independent form. However, at the time of issuance of the Office Action, claims 4 and 5 depended in the alternative from both claims 1 and 2, and the Office Action did not indicate whether claims 4 and 5 should be rewritten to include the subject matter of claim 2. Because applicant believes that claims 4 and 5 are allowable without the subject matter recited in claim 2, the claims are rewritten accordingly.

In view of the remarks above, applicant submits that the entire application is in condition for allowance, and a Notice of Allowability is now solicited. If the Examiner believes that issues remain unresolved, he is welcome to contact the undersigned.

If necessary, the undersigned authorizes deducting any fees that may be due from Deposit Account No. 50-2866.

Respectfully submitted,

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Enclosure: Petition for extension of time

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